

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ANDREW M. FLORES,

Petitioner,

v.

WARDEN MARTINEZ, et al,

Respondents.

Case No. C06-5114RBL

ORDER

THIS MATTER comes on before the above-entitled Court upon Petitioner's [2nd] Notice of Appeal and Motion for a Certificate of Appealability [Dkt. #31].

Having considered the entirety of the records and file herein, the Court finds and rules as follows:

Petitioner has filed a Notice of Appeal of this Court's Order adopting the report and recommendation denying his petition for a writ of habeas corpus [Dkt. #28]. He has also filed a Letter seeking to supplement the record [Dkt. #34]. The Court will consider the letter as a Motion for Reconsideration and because the Letter/Motion fails to show "manifest error" in the Court's prior ruling or provide "new facts or legal authority," CR 7(h)(1), Local Rules W.D. Wash., the Letter/Motion [Dkt. #34] will be **DENIED**.

Petitioner has filed a Motion to Supplement the Record [Dkt. #35]. This motion, unlike the letter referenced above, does not seek reconsideration; rather, petitioner asks for more time to reply to any response by the respondent to his Motion for a Certificate of Appealability. Because respondent has not filed a

1 response to petitioner's Motion for a Certificate of Appealability, petitioner's Motion to Supplement the
2 Record [Dkt. #35] is **DENIED** as **MOOT**.

3 Furthermore, for the reasons stated in the Report and Recommendation [Dkt. #24], this Court declines
4 to issue a Certificate of Appealability because the petitioner has failed to make "a substantial showing of the
5 denial of a constitutional right." 28 U.S.C. §2253(c)(2).

6 **IT IS SO ORDERED.**

7 The Clerk shall send uncertified copies of this order to all counsel of record, and to any party appearing
8 pro se.

9 Dated this 19th day of March, 2007.

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12 RONALD B. LEIGHTON
13 UNITED STATES DISTRICT JUDGE
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